



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

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Business Impact Analysis

Agency, Board, or Commission Name: Ohio Department of Agriculture

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Regulation/Package Title (a general description of the rules' substantive content):

Equine Infectious Anemia

Rule Number(s): 901: 1-19-01 through 08

Date of Submission for CSI Review: 9/27/24

Public Comment Period End Date: 10/18/24

Rule Type/Number of Rules:

New/___ rules

No Change/ 8 rules (FYR? yes)

Amended/___ rules (FYR? ___)

Rescinded/___ rules (FYR? ___)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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Reason for Submission

1. **R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. ☒ **Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- b. ☒ **Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- c. ☒ **Requires specific expenditures or the report of information as a condition of compliance.**
- d. ☐ **Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

Regulatory Intent

2. **Please briefly describe the draft regulation in plain language.**

Please include the key provisions of the regulation as well as any proposed amendments.

The rules in this package regulate the disease known as Equine Infectious Anemia which is designated under rule 901:1-21-02 of the Ohio Administrative Code (OAC) as dangerously contagious and infectious. Pursuant to authority in section 941.02 of the Ohio Revised Code, the Director of Agriculture has authority to use all proper means in the prevention and eradication of infectious and contagious diseases which pose a threat to public health or animal health.

901:1-19-01 sets out the purpose of the chapter. This rule is being proposed with no changes made.

901:1-19-02 sets forth the definitions as used in the chapter. This rule is being proposed with no changes made.

901:1-19-03 states that no person shall remove, alter, or deface any identification on an animal being tested for equine infectious anemia. This rule is being proposed with no changes made.

901:1-19-04 sets forth the rules on testing and identification of suspect and positive animals. This rule is being proposed with no changes made.

901:1-19-05 states the prohibition on the importation of equidae into the state of Ohio without evidence of a negative test for equine infectious anemia. This rule is being proposed with no changes made.

901:1-19-06 outlines the requirements for animals found to be infected with equine infectious anemia. This rule is being proposed with no changes made.

901:1-19-07 outlines the control of exposed or infected animals and premises. Specifically, the rule states that equidae exposed to equine infectious anemia by another animal must be quarantined until tested and released by the Department. This rule is being proposed with no changes made.

901:1-19-08 outlines the testing requirements of animals which are for sale in the state of Ohio. As a general rule, all equidae over twelve months of age which are offered for sale in the state must have been tested and classified as negative prior to the sale. However, the rule exempts equidae which are less than twelve months of age, equidae which are slaughtered within 72 hours of transfer of ownership, and equidae which are sold at a livestock market and held there until a sample from the animal is taken. This rule is being proposed with no changes made.

- 3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.**

O.R.C. 941.02, 941.03, 941.07, 941.08, 941.09, 941.10, 941.11

- 4. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?
*If yes, please briefly explain the source and substance of the federal requirement.***

No

- 5. If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

Not Applicable

- 6. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

The Director of Agriculture has authority to use all proper means in the prevention and eradication of infectious and contagious diseases which pose a threat to public health or animal health. Equine infectious anemia is an infectious and potentially fatal viral disease which affects the members of the equidae family. Often, upon the initial exposure to the disease, equidae develop severe, acute signs of the disease within two to three weeks. Outbreaks of the disease have the potential to infect a high number of horses in the state. Through this rule and continued education to the equidae community, the number of horses that have contracted equine infectious anemia has decreased over the years. Due to this potential threat to animal health, these rules are necessary to track, test, and eradicate the disease in the state. By maintaining the rules in this chapter, the risk to the equidae populations in the state remains low.

- 7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

Success of this program is measured by the report of little or no outbreaks of equine infectious anemia in the state of Ohio among horse producers, as well as immediate containment of any outbreaks which do occur.

8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No

Development of the Regulation

9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

If applicable, please include the date and medium by which the stakeholders were initially contacted.

The following stakeholders were contacted via email on July 18, 2024, for a public comment period which remained open until August 1, 2024.

ANDERHOLM VETERINARY CLINIC	Anderholm, Constance
Animal Welfare Institute	Craig, Adrienne
Animal Welfare Institute	Reyes, Gwendy
ANIMALS UNLIMITED VETERINARY HOSPITAL	Anderson, Valerie
Aquaculture	Dan Longnecker
Buckeye Quality Beef Association	David Hyde
Burroughs Veterinary Services	Dr Brittany Erbe (Burroughs)
Burroughs Veterinary Services	Dr Mark Burroughs
BYLAND ANIMAL HOSPITAL	general email
Capital Advocates	Kurt Leib
Capitol Advocates	Rob Eshenbaugh
Capitol Consulting	Belinda Jones
CELINA ANIMAL HOSPITAL, INC.	Miesse, Craig
CLAREMONT VET CLINIC	Kaeser, Donald R
Columbiana County Dog Warden	general email
Columbus Dog Connection	Defrischia, Kelly
Commercial Dog Breeder Advisory Board	Dr. Micheal Frederick
Commercial Dog Breeder Advisory Board	Dr. Patricia Haynes
Commercial Dog Breeder Advisory Board	Linda Stickney
Commercial Dog Breeder Advisory Board	Lisa Zimmerman
Commercial Dog Breeder Advisory Board	Lori Carlson
Commercial Dog Breeder Advisory Board	Matt Granito

Commercial Dog Breeder Advisory Board	Vicki Deisner
Commercial Dog Breeder Advisory Board	Mark Finneran
Commercial Dog Breeder Advisory Board	Zharon VanMeter
COUNTRY ROADS VETERINARY SERVICES	Brennan, David T
CRANK AND KIRKPATRICK ANIMAL HOSPITAL	general email
DANVILLE VETERINARY CLINIC	Hoxworth, Teresa
DANVILLE VETERINARY CLINIC	Webb, L. Jarrod
Delaware Equine LLC	Chase, James P
DHI Cooperative, Inc	Brian Winters
DIAMOND M VETERINARY CLINIC	Kearns, Earnest
East Holmes Vet Clinic	Mierzwiak, Kristen
East Holmes Vet Clinic	Shaver, Eric M
East Holmes Vet Clinic	Wise, Aaron
FAYETTE VETERINARY HOSPITAL	general email
GREEN CAMP VET CLINIC	Forshey, Melissa
Greenfield Vet	Sims, Michael
HEALTHY PETS OF WEDGEWOOD	general email
Heritage Veterinary Care	general email
Hillsboro Veterinary Hospital	general email
Hocking Hills Animal Clinic	Shannon Moore
Holmes County Dog Warden	general email
Humane Society of the United States	Corey Roscoe
Ice Miller	Samuel Porter
Karr Veterinary Clinic	Karr, Paul E
Knox County Dog Warden	John Carhart
KOLEHMAINEN VETERINARY CLINIC	Kolehmainen, William J
LISBON VET CLINIC INC	Schmucker, Gordon
Little Puppies Online LLC	Nathan Bazler
MASTERSON VETERINARY CLINIC	Masterson, Rhonda
MedVet Columbus	Eric Schertel
Mogadore Vet Hospital	Whittington, David
Mt Hope Vet Services, Walnut Creek Veterinary Clinic	Varga, Joseph
Napoleon Veterinary Clinic	general email
Nation Farmers Organization	Alva Heiss
Northgate Animal Hospital	Gibson, Douglas
ODNR DOW	Kendra Wecker
OEPA	Alison Shockley
Ohio Ag Council	Janice Welsheimer
Ohio Agribusiness Association	Aaron Heilers

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Ohio Agribusiness Association	Janice Welsheimer
Ohio Agribusiness Association	Lauren Prettyman
Ohio Agribusiness Association	Melinda Witten
Ohio Animal Welfare Federation	Colleen Evans
Ohio Beef Council/Ohio Cattlemen's Association	Elizabeth Harsh
Ohio Belgian Breeders Association	Carolyn Piergallini
Ohio Dairy Producers	Scott Higgins
Ohio Dairy Veterinarians	Dr. Gabe Middleton
Ohio Farm Bureau	Adam Sharp
Ohio Farm Bureau	Jack Irvin
Ohio Farm Bureau	Leah Curtis
Ohio Farm Bureau	Roger High
Ohio Farm Bureau	Tony Seegers
Ohio Farm Bureau	Jordan Hoewischer
Ohio Farmers Union	Joe Logan
Ohio Forum for Companion Animals	Leon Beachy
Ohio Forum for Companion Animals	general email
Ohio Forum for Companion Animals	Daniel Schlabach
Ohio Haflinger Association	Lucy Workman
Ohio Harness Horsemen's Association	Renee Mancino
Ohio Percheron Breeders Association	Darlana Chettle
Ohio Pork Producers Council	Cheryl Day
Ohio Poultry Association	Jim Chakeres
Ohio Quarter Horse Association	Scott Myers
Ohio Soil and Water Conservation Commission	Tom Price
Ohio Soybean Association	Brandon Kern
Ohio State Grange	Mike Russell
Ohio State University	Adam Ward
Ohio Veterinarian Medical Association	general email
Ohio Veterinarian Medical Association	Jack Advent
Ohio Veterinarian Medical Association	Chris Henney
Ohio Welsh Pony Association	Paul Hurd
Paw Patch Veterinary Services	Hirt, Laurie
Petco	Mike Gonidakis
PONDVIEW VETERINARY CLINIC	Dougherty, Patrick
PONDVIEW VETERINARY CLINIC	Small, Tasha Nichole
Premier Pups LLC	Michael Schoeff
SHELBY ANIMAL CLINIC	Knox, John W
Sierra Club, Ohio Chapter	Adam Rissien

STONYRIDGE VETERINARY SERVICE	Eisenberg, Eric
Sugarcreek Veterinary Clinic	Daugherty, Rick
Sugarcreek Veterinary Clinic	Donley, Shane
Sugarcreek Veterinary Clinic	Honigford, James
Sugarcreek Veterinary Clinic	Sugarcreek Veterinary Clinic
The Batchelder Company	Judy, Troy
The Ohio State University	Dr. Jeanette O'Quinn
The Ohio State University	Dr. Rustin Moore
The Ohio State University	Dr. Tom Wittum
The Ohio State University	Peggy Hall
THE PLAINS VETERINARY HOSPITAL, LLC	Ryan, Ericka
Tuscarawas County Dog Warden	general email
Twin Valley Animal Hospital	Twin Valley Animal Hospital
Twinsburg Vet Hospital	Lozanoff, Stacy
United Producer's Inc	Mike Bumgarner
USDA APHIS WS	Andy Montenev
Wayne County Dog Warden	general email
WHEELERSBURG ANIMAL HOSPITAL INC.	general email
WILLARD VETERINARY CLINIC	general email
Veterinarian	Dr. Dennis Trautwein
Veterinarian	Dr. Gabe Middleton
Veterinarian	Dr. Greg Price
Veterinarian	Hoxworth, Teresa
Veterinarian	Mike Tonkovich
Veterinarian	Meghan Provo

10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

No comments were received during the stakeholder comment period.

11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

The testing requirements of this rule have been developed for over 40 years. Adherence to this schedule of testing has dramatically reduced the number of reported cases of equine infectious anemia.

12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?
Alternative regulations may include performance-based regulations, which define the

required outcome, but do not dictate the process the regulated stakeholders must use to comply.

The Department is statutorily tasked with the control and eradication of contagious and infectious diseases to protect the animals of the state under Chapter 941. The status of these diseases identified on this list as dangerously contagious and infectious are based on scientific research supporting this designation. In addition, the identification of these diseases as dangerously contagious and infectious diseases is generally nationally accepted. Lack of stakeholder participation in this rule package has indicated to the Department that this is the best regulatory scheme at this time. For those reasons, no other regulatory alternatives were considered.

13. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

The Department is given sole regulatory authority to designate dangerously contagious or infectious diseases in R.C. 941.03.

14. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

These rules are already implemented within the industry and the Department works with all livestock dealers and those involved in animal industries to educate and inform them on the safety regulations. The staff members of the Animal Health Division ensure that all equine owners are treated in a similar manner.

Adverse Impact to Business

15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:

- a. Identify the scope of the impacted business community, and**
All equidae owners and producers.

- b. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).**
The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a representative business. Please include the source for your information/estimated impact.

All equidae over twelve months of age which are offered for sale in the state must have been tested and classified as negative prior to the sale. However, the rule exempts equidae which are less than twelve months of age, equidae which are slaughtered within 72 hours of transfer of ownership, and equidae which are sold at a livestock market and held there until a sample from the animal is taken.

Tests for equine infectious anemia range from \$5.60 to \$13.50 per animal, plus any veterinarian fees which will vary from veterinarian to veterinarian.

In the event that an animal is classified as suspect or positive for equine infectious anemia, the breeder or producer will be subject to immediate quarantine of their animal and potentially their facility or farm. They will be obligated to use business time to notify the Department of the presence of the disease, which should not exceed more than a half hour after discovery of the disease. They also cannot sell or otherwise move the animal, and potentially may not be able to move, transfer, or otherwise sell any other animal on the premises until it is determined the animal has recovered, the remaining animals are disease-free, or other containment takes place. The breeder or producer will likely be subject to veterinarian costs for diagnosis and treatment, which will vary on the location and the individual veterinarian providing the services. In the event that the animal does not recover, the breeder or producer may be subject to losing the animal to prevent the spread of the disease.

- 16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors*).**

No. This rule package is being submitted with no changes made at this time.

- 17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?**

The Department acknowledges that there will be an adverse impact on the business community. However, the Department is also directed by statute to protect the health and safety of Ohio's animals and Ohio's consumers. As an outbreak of the disease could significantly impact the equidae industry, the adverse impact is considered justified.

Regulatory Flexibility

- 18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.**

Due to the health and safety nature of the rule, different standards based on the size of the business would be inappropriate.

- 19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?**

Due to the potential to cause serious harm to public and animal health, the Department does not waive penalties or fines for first time violators.

- 20. What resources are available to assist small businesses with compliance of the regulation?**

These rules are already implemented within the industry and the Department works with all stakeholders in order to educate and inform them on the regulations.